

### **REMARKS/ARGUMENTS**

#### **Interview**

Applicants thank the Examiner for his courtesy and consideration in discussing this Application in telephone interviews on October 9 and 17, 2007.

In the interviews, pending claim 38, and withdrawn claims 14-18, 24-27, 29-33, 35-37, and 39-46 were discussed. In the October 9, 2007 interview, Examiner and Applicants discussed how the issuance of the Office Action dated August 1, 2007, after the Decision on Appeal mailed July 27, 2007, had the effect of bifurcating the prosecution of the present Application. Examiner agreed that he would consult his supervisor to see if he could pull the Office Action mailed August 1, 2007, so that the Request for Continued Examination could be considered.

On October 12, 2007, Examiner advised Applicants that his supervisor had rejected this option, and that Office Action mailed August 1, 2007 would stand.

On October 16, 2007, Applicants had yet another Interview with Examiner, discussing what issues could be raised in the Response to the August 1, 2007 Office Action. After another consultation with his supervisor, Examiner stated that any amendment to the withdrawn claims would give rise to an Office Action indicating a non-responsive amendment. Examiner did, however, agree that the propriety of the withdrawal could be addressed in the Response, as long as the withdrawn claims were not amended.

#### **Status of the Claims**

Before this Amendment, claims 14-18, 24-27, 29-33, 35-37, and 39-46 stood withdrawn by the Examiner, and only claim 38 remained present for examination. Claim 38 is amended. No new claims are added. Therefore, claim 38 is present for examination. No new matter is added by these amendments, as support for the amendment may be found in the Specification (Original Application, p. 15, ll. 12-13; p. 18, l. 18 - p. 22, l. 11).

An Office Action dated June 16, 2005 ("2005 Office Action") rejected claims 14-18, 24-27, and 39-44 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,677,955

("Doggett") and U.S. Patent No. 5,920,847 ("Kolling"). The 2005 Office Action rejected claims 29-33 and 35-37 under 35 U.S.C. § 103(a) as unpatentable over Doggett, Kolling, and U.S. Patent No. 5,987,140 ("Rowney"). The 2005 Office Action rejected Claim 45 under 35 U.S.C. § 103(a) as unpatentable over Doggett, Kolling, and U.S. Patent No. 6,193,155 ("Walker"). The 2005 Office Action rejected Claim 46 under 35 U.S.C. § 103(a) as unpatentable over Doggett, Kolling, Rowney, and U.S. Patent No. 6,442,529 ("Krishan"). Claim 38 was not addressed.

The Decision on Appeal (the "Decision") of the Board of Patent Appeals and Interferences (the "Board") in Appeal No. 2007-1683, dated July 27, 2007, sustained the Examiner's rejections.

An Office Action dated August 1, 2007 rejected independent claim 38 under 35 U.S.C. § 103(a) as unpatentable over Doggett, Kolling, and Rowney. This Office Action withdrew claims 14-18, 24-27, 29-33, 35-37, and 39-46.

On September 24, 2007, Applicants submitted a Request for Continued Examination, amending the withdrawn claims and requesting continued examination. 37 C.F.R. § 1.198 provides that prosecution may be reopened after a final decision by the board. Specifically, MPEP § 1214.07 provides that if an

amendment ... filed after the Board's decision ... is submitted with a request for continued examination (RCE) under 37 CFR § 1.114 and the fee set forth in 37 CFR § 1.17(e), prosecution of the application will be reopened and the amendment will be entered.

A Request for Continued Examination and associated fee were filed concurrently therewith, and Applicants requested that prosecution be reopened for the withdrawn claims, as amended.

However, Office Actions dated September 27 and October 9, 2007 found that the above request was improper. Applicants respectfully traverse this finding, relying on 37 C.F.R. § 1.198. Applicants respectfully request that the withdrawn claims be examined, and that the notice of improper RCE be withdrawn. Applicants also respectfully submit that the September 24, 2007 amendment should have been entered and considered under 37 CFR 1.111.

Nonetheless, for purposes of moving prosecution forward, claim 38 will now be addressed with further discussion of the withdrawn claims.

**Claim 38: U.S.C. § 103(a) Rejections - Doggett, Kolling, and Rowney**

The August 1, 2007, Office Action rejected independent claim 38 under U.S.C. § 103(a) as unpatentable over Doggett, Kolling, and Rowney. To establish a *prima facie* case of obviousness, the prior art references must “teach or suggest all the claim limitations.” MPEP § 2143. Applicants respectfully submit that the cited references cannot be relied upon to teach or suggest the limitations of independent claims.

Specifically, Doggett, Kolling, and Rowney cannot be relied upon to teach or suggest 1) receiving, at a funds transfer system, selection of a private payment option indicating a choice by a purchaser for private transfer of financial information from the purchaser to the funds transfer system exclusive of the vendor system. These references also fail to teach or suggest 2) establishing a secure connection between the funds transfer system and the purchaser, the secure connection preventing access by the vendor system during the transfer of the financial information over the secure connection. In addition, the cited references cannot be relied upon to teach or suggest 3) the different types of communications over the secure connection set forth in the independent claims. These limitations may be found in independent claim 38.


Applicants respectfully submit that the specified limitations in independent claim 38 are allowable for at least the foregoing reasons. Applicants, therefore, respectfully request that the § 103(a) rejections to this claim be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "ML Drapkin".

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